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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/807,154 | 04/09/2001 | Rudolf Flosbach | 327 084 | 4211 |

7590 06/19/2003

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EXAMINER

JACKSON, ANDRE K

ART UNIT

PAPER NUMBER

2856

DATE MAILED: 06/19/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/807,154

Applicant(s)

FLOSBACH, RUDOLF

Examiner

Andre' K. Jackson

Art Unit

2856

-- The MAILING DATE of this communication appears on the cover sheet with the corresponding address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 May 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 21-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 21-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the inner and outer sub frames and the spring device must be shown or the features canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Specification

2. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required:

Regarding claim 21, inner and outer sub frames are not disclosed in the specification.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be

patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 21-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over DE 19642099.

Regarding claim 21, DE 19642099 discloses an upper frame and lower frame of which a film is stretched in a frame each of the upper frame and the lower frame (4,5 Figure 3) further comprising two sub frames (41, 51) outer and inner (where 2 and 3 are between 4 and 5 respectively) where the films are fastened and where each outer sub frame of the upper and lower frames includes a recess having disposed therein a corresponding inner sub frame defining a test chamber between the upper and lower frames for an incoming test gas sample entering the defined test chamber (Figure 3) and in which the films are at least one of adhered and screw-fastened with the frame portions onto which they are respectively stretched and in which each recess is disposed in a region of a corresponding outer sub frame facing away from the test chamber (Figure 3). A steel profile is not provided in the reference. However, the artisan would make the necessary provisions needed to have the frames come together uniformly to have correct results during testing. The composition of the frames is considered a design choice and clearly within the purview of the skilled artisan. The artisan would be inclined to have the frames made of a specific material that is able to prolong the life of the

apparatus and to make the apparatus lighter. Applicant has not disclosed the criticality of the lip seal. Therefore, it is considered a design choice and well within the purview of the skilled artisan to include an equivalent of the lip seal, such as (17) of the reference, to perform the same function.

Regarding claim 22, DE 19642099 discloses a central connection port (21) and a line (18) connected to the port. What is not disclosed is the port being detachably connected. However, it is clearly within the purview of the skilled artisan to have the hose detachable for replacement of the hose and movement of the apparatus.

Regarding claim 23, DE 19642099 does not disclose the composition of the tubes. However, it is well known in the art to have tubes made from synthetic materials such as different polymers and rubbers to have stronger longer lasting tubes.

Regarding claim 24, DE 19642099 does not disclose how the tube is made, but it is considered a design choice and within the purview of the skilled artisan to have a corrugated tube or a comparable tube in the reference. Having this tube would make the connection/disconnection of the line easier.

Regarding claim 25, DE 19642099 does not disclose the composition of the tubes. However, it is well known in the art to have tubes made from synthetic materials such as different polymers and rubbers to have stronger longer lasting tubes.

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Regarding claim 26, DE 19642099 discloses a hinge (7), which provides the same function as the claimed spring device.

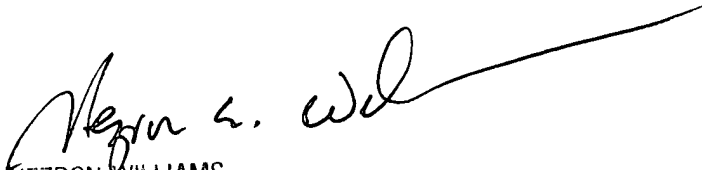
5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to André K. Jackson whose telephone number is (703) 305-1522. The examiner can normally be reached on Mon.-Thurs. 7AM-4PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hezron Williams can be reached on (703) 305-4705. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-7722 for regular communications and (703) 308-7722 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1782.

A.J.

June 13, 2003


HEZRON WILLIAMS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800